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9 UNITED STATES DISTRICT COURT
10 SOUTHERN DISTRICT OF CALIFORNIA

11 TIMOTHY PATRICK (1),) Criminal No. 02-CR-1714-L-1
12 Petitioner,)
13 v.) **ORDER DENYING MOTION FOR**
14 UNITED STATES OF AMERICA,) **MODIFICATION OF TERM OF**
15 Respondent.) **IMPRISONMENT PURSUANT TO**
16) **18 U.S.C. § 3582(C)(2)**

17 On December 19, 2011, Petitioner Edric Charles Jordan (“Petitioner”), proceeding *pro se*,
18 submitted a letter to the court, which the Court construes as a motion for relief of sentence pursuant
19 to 18 U.S.C. § 3582(c)(2). Petitioner’s motion is based upon the retroactive amendments to the
20 Sentencing Guidelines that pertain to crack cocaine offenses which became effective November 1,
21 2011. The Government has filed a response and opposition, and Petitioner did not filed a reply.
22 The Court has reviewed the record, the submissions of the parties, and the supporting exhibits and,
23 for the reasons set forth below, **DENIES** Petitioner’s motion.

24 **BACKGROUND**

25 A superseding indictment filed in December 2003 charged Petitioner with Conspiracy to
26 Possess with Intent to Distribute at Least 500 Grams of Cocaine (Count 1) and Possession of Cocaine
27 with Intent to Distribute (Count 2). Petitioner was convicted by a jury of both counts in April 2005.
28 In December 2005, this Court sentenced Petitioner to 211 months of imprisonment. The Court

1 determined that Petitioner's base offense level was 28 because the offense involved 2 kilograms of
2 cocaine. The Court also found that Petitioner was an "organizer/leader," which increased the
3 offense 4 additional levels. The total offense level of 32, coupled with Petitioner's criminal history
4 category of V, resulted in a Guideline advisory range of 188-235 months. The Court notes that no
5 crack cocaine figured into either Petitioner's Guideline calculations or his sentence.

6 On August 19, 2008, the Court denied Petitioner's prior §3582 motion based on the 2007
7 amendments to the Sentencing Guidelines related to crack cocaine. The Court found Petitioner was
8 not eligible for a sentence reduction because his offenses involved cocaine, not crack cocaine.
9 (Docket No. 550.)

10 DISCUSSION

11 Petitioner now moves for a reduction of his sentence, pursuant to 18 U.S.C. § 3582(c), based
12 on Amendment 750 to the Sentencing Guidelines. Amendment 750 reduces the base offense level
13 for crack cocaine offenses in § 2D1.1(c) of the Sentencing Guidelines, by applying an 18:1 crack-to-
14 powder ratio, instead of a 100:1 ratio. *See* Amendment 750, Supplement to Appendix C,
15 Amendments to the Guidelines Manual. The Sentencing Commission has given this amendment
16 retroactive effect and has listed it in § 1B1.10(c) of the Guidelines, a requirement for retroactive
17 amendments. *See* U.S.S.G. § 1B1.10(c)

18 Petitioner, however, is not eligible for this reduction because crack cocaine did not figure into
19 either his Guidelines calculation or his sentence. The Court may only reduce a sentence under §
20 3582(c)(2) if the Guidelines sentencing range "has subsequently been lowered by the Sentencing
21 Commission." 18 U.S.C. § 3582(c)(2). Petitioner was sentenced under the powder cocaine
22 Guidelines, not the crack cocaine Guidelines. The powder cocaine Guidelines have not changed.
23 Therefore, Petitioner's motion for relief of sentence pursuant to 18 U.S.C. § 3582(c)(2) is **DENIED**.

24 **IT IS SO ORDERED.**

25 DATED: March 16, 2012

26 
27 M. James Lorenz
28 United States District Court Judge

COPIES TO:
PETITIONER
U.S. ATTORNEY'S OFFICE
U.S. PROBATION